IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.3287 OF 2006

Vasantibai Rajaram Kuwalekar. ...Petitioner.

Vs.

Kusumkumari P. Sadh & Anr. ...Respondents.

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Mr.C.N. Chavan for the Petitioner.

Mr.Abhay D. Parab for Respondent No.2.

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CORAM : DR.D.Y.CHANDRACHUD, J.

June 12, 2006.

P.C. :

Rule, by consent of Counsel returnable forthwith. Counsel appearing on behalf of the Second Respondent waives service. By consent of Counsel and at the request of the Counsel, taken up for hearing.

The Petitioner is a monthly tenant of the First Respondent in respect of Room Nos. 1 and 2 in Chawl No.97, situated at Sahar Road, Kol Dongri, Andheri (East), Mumbai-400 069. The First Respondent instituted a suit against the Petitioner in the Court of Small Causes, RAE & R.Suit No.180/676 of 1980 for the recovery of possession on the ground of arrears of rent and on the ground that the Petitioner has unlawfully parted with the possession of the suit premises to a third party. The Second Respondent filed an application in the year 2005, nearly 25 years after the suit was instituted, for impleading him as a Defendant to the suit. The Petitioner opposed the application. The Trial Court allowed the application by the impugned order dated 14th November 2005.

The Second Respondent admits that during the life time of his grandfather, the tenancy was transferred in the name of his grandmother, the Petitioner herein. The Second Respondent is neither a necessary nor a proper party to the suit. The landlord has instituted a suit against the Petitioner for eviction. Since the Petitioner is

the tenant, she has been impleaded as the Defendant to the suit. The Second Respondent is neither a necessary nor a proper party. The impugned order of the Trial Court has to be quashed and set aside.

The impugned order of the Learned Trial Judge dated 14th November 2005 is quashed and set aside. The application for impleadment shall stand dismissed. The petition is allowed in these terms. There shall be no order as to costs.

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